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| 09/499,832      | 02/08/2000  | Alexander Dadiomov   | 1018.068US1         | 1798             |

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EXAMINER

AVELLINO, JOSEPH E

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2143

DATE MAILED: 06/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/499,832

Applicant(s)

DADIOMOV ET AL.

Examiner

Joseph E. Avellino

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☒ Claim(s) 32-42 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

**DETAILED ACTION**

1. Claims 1-42 are presented for examination.
2. During a conversation with Ms. Grace Law on June 3, 2003, the Examiner indicated that claims 32-42 would be allowable if written in independent form. Ms. Law thanked the Examiner for pointing out allowable subject matter but declined to rewrite said claims in allowable form.

***Allowable Subject Matter***

3. Claims 32-42 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3-7, 9-14, 16-18, and 20-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Bell et al. (6,044,081) (hereinafter Bell).

5. Referring to claim 1, Bell discloses a machine readable-medium having instructions stored thereon for execution by a processor of a sender within a message transaction system to perform a method comprising:

tagging a first message of a transaction with a first-message identifier (col. 20, lines 54-65);

tagging a last message of the transaction with a last-message identifier (col. 20, lines 54-65); and

transmitting the first message, the last message and any other message of the transaction (e.g. abstract);

6. Referring to claim 3, Bell discloses the last-message identifier comprises a bit set to one when tagged and otherwise set to zero (col. 20, lines 54-65).

7. Referring to claim 4, Bell discloses, prior to transmitting, tagging the first message, the last message, and the any other message of the transaction with a transaction-counter identifier (message number) (col. 20, lines 54-65).

8. Referring to claims 5 and 18, Bell discloses the transaction-counter identifier comprises an ordered-counter of bits (col. 20, lines 34-65 and Figure 7).

9. Referring to claim 12, Bell discloses a machine-readable medium having instructions stored thereon for execution by a processor of a receiver within a message transaction system to perform a method comprising:

receiving a first message (col. 21, lines 5-30);

determining whether the first message is tagged with a first-message identifier (col. 21, lines 5-19);

upon determining that the first message is tagged with the first-message identifier,

repeating receiving an additional message until the additional message received is tagged with one of the first-message identifier and a last-message identifier (col. 21, lines 5-30);

upon determining that the additional message is tagged with the last-message identifier, concluding at least that a transaction having a proper first and last message has been received (col. 21, lines 5-19);

otherwise concluding that an error has occurred (col. 21, lines 5-30); and,

otherwise concluding that an error has occurred (col. 21, lines 5-30).

10. Referring to claim 13, Bell discloses repeating receiving an additional message until the additional message received is tagged with one of the first-message identifier and a last-message identifier comprises repeating receiving the additional message until the additional message received is tagged with one of the first-message identifier,

Art Unit: 2143

the last-message identifier and a transaction-counter identifier unequal to a transaction-counter identifier with which the first message is tagged (col. 21, lines 20-30).

11. Referring to claim 14, Bell discloses determining that the additional message is tagged with the last-message identifier, concluding at least that a transaction (message) having a proper first and last message (frame) has been received comprises upon determining that the additional message is tagged with the last-message identifier and with a transaction-counter identifier equal to a transaction-counter identifier with which the first message is tagged, concluding at least that a transaction having a proper first and last message has been received only upon so determining (col. 21, lines 20-30).

12. Claims 6, 7, 9, 16, 17, 20, 21, 23, 24, 26, 27, and 29-31 are rejected for similar reasons as stated above.

13. Referring to claim 11, Bell discloses changing the transaction-counter identifier (message number) comprises incrementing the ordered counter of bits (Figure 7 and col. 20, lines 34-65).

14. Referring to claim 22, Bell discloses tagging each message of the transaction as part of the transaction (e.g. cols. 20-21).

Art Unit: 2143

15. Referring to claims 25 and 28, Bell discloses comprising a processor and a computer-readable medium, such that the computer program is executed by the processor from the computer-readable medium (col. 10, lines 25-28).

***Claim Rejections - 35 USC § 103***

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 2, 8, 15, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bell in view of Dombrosky et al. (USPN 5,881,247) (hereinafter Dombrosky).

Art Unit: 2143

18. Referring to claims 2, 8, 15, and 19, Bell discloses a method for setting transactional boundaries as stated above. Bell does not disclose the first-message identifier comprises a bit set to one when tagged and otherwise set to zero. Dombrosky discloses the first-message identifier comprises a bit set to one when tagged and otherwise set to zero (col. 27, lines 1-3). It would be obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Dombrosky with Bell to provide another design method to detect the start of a new transaction.

***Response to Amendment***

19. The Examiner has considered the amendment to claim 7 to correct a problem concerning a 35 USC 112, first paragraph issue. The rejection to claim 7 under this statute is withdrawn.

20. Applicant's arguments filed May 8, 2003 have been fully considered but they are not persuasive.

21. Applicant argues in substance that (1) the system of Bell deals primarily with encapsulating MAC frames within a Q.921 format instead of the claimed invention which deals with "application oriented messages" as claimed and therefore is not applicable as prior art.



Art Unit: 2143

22. As to point (1) Applicant is correct in identifying the purpose and scope of the Bell reference. However the claims recite "a message transaction system" which is taken to mean transferring any ordering of bits between two computers. Furthermore, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., pertaining to applications tracking completion of database transactions) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### ***Conclusion***

23. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 2143

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph E. Avellino whose telephone number is (703) 305-7855. The examiner can normally be reached on Monday-Friday 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (703) 308-5221. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

JEA  
June 13, 2003



DAVID WILEY  
SUPERVISORY PATENT EXAMINER  
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